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20231 on July 16, 1999 by Kay Bulen Kay Bulen
Date Signature Printed name

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: Kevin J. Tracey et al.

Serial No.: 09/118,388

Filed: 17 July 1998

For: COMPOUNDS AND COMPOSITIONS FOR TREATING TISSUE ISCHEMIA

Examiner: R. Gerstl

Art Unit: 1613

Docket No.: 1101

Date: 16 July 1999

Assistant Commissioner for Patents
Attention: Office of Petitions
Box DAC
Washington, DC 20231

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PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 C.F.R. §1.137(b)

Sir:

The above-identified patent application became abandoned on 18 June 1999 for failure to respond to the Restriction Requirement mailed on 17 November 1998. The abandonment date of this patent application is 17 April 1999.

Applicants hereby petitions for revival of the above-identified patent application. Applicants are providing: (1) the Petition fee under 37 C.F.R. §1.17(m) (\$605, small entity); (2) Response to Restriction Requirement and Request for a four month extension of time (\$680); and (3) Statement that the entire delay was unintentional. Applicants are enclosing a check in the amount of \$1285. Kindly charge any additional amounts or credit any overpayments to Deposit Account 04-0258 of Davis Wright Tremaine.

With regard to the fees, a small entity statement was previously filed.

The Statement under 37 C.F.R. §1.37(b) indicates that the entire delay was unintentional. The reasons for the abandonment are a series of events involving file transfer and change in jobs and location for the undersigned Attorney for Applicants. The undersigned Attorney for

Applicants is a registered patent attorney who became employed part time for the assignee (The Picower Institute for Medical Research in Manhasset, New York, a not-for-profit research institute) and as the General Counsel for a for-profit partly-owned development company Cytokine Networks, Inc. (CNI) (small entity) with a principal place of operations in Seattle, Washington (although a merger was just completed wherein the company is now called Cytokine Pharmasciences, Inc. with offices in Pennsylvania and Washington State).

The undersigned Attorney was working for both (related) employers under a single contract that expired 01 December 1997 but was extended for two months with the month of January 1998 being a transition month. The undersigned Attorney joined the law firm of Davis Wright Tremaine (DWT) in the Seattle office in January, 1998, and with the permission of PIMR, transferred the Seattle files to DWT. The undersigned also created the patent department at DWT as no other patent attorneys were employed by or members of this firm having 13 offices and close to 400 attorneys.

The undersigned first tried to set up a docket system within DWT by utilizing an existing trademark docket system that had been developed internally by a paralegal using a Microsoft Access database program (part of the Office suite of programs). The undersigned then taught the trademark paralegal about dates for US, PCT and foreign filings. Unfortunately, the dates were lost upon entry and no dates were able to be retrieved from this effort. As an emergency measure, the undersigned (1) undertook (with secretarial support) to put in docket dates manually in a Word program in Table format, and (2) charged the DWT network computer system department with implementing a patent commercial docket software system. The growth of the patent group (three associate attorneys joined the undersigned attorney) in the following 11 months outpaced the emergency Word docket system. Meanwhile the Computer Systems group was busy studying various docket software packages for compatability across a single network that can be accessed from multiple offices (DWT's 13 offices stretch from New York and DC on the east coast to the west coast (Seattle to LA), Anchorage and Honolulu and even Shanghai, China) through a single network. The Computer Systems group now claims that the docket system will be ready for file entry in August, 1999.

In the specific case of this patent application, the docket entry in the emergency Word system indicated that it was an Office Action rather than a Restriction Requirement. The undersigned was further waiting for some references to file in an IDS from the applicants but never received them. The combination of events resulted in a missed date. This was noticed as it is presently the 12 month date for foreign filing and we had backed up 12 month foreign filing dates into a DWT litigation docket system in view of concerns about the inadequacy of the emergency Word system.

In view of the foregoing Petition and the enclosed Response to Restriction Requirement, applicants respectfully request issuance of the above-identified patent application.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application, any patent issuing thereon, or any patent to which this verified statement is directed.

Respectfully submitted,



Jeffrey B. Oster
Attorney for Applicants
Registration No. 32,585

Davis Wright Tremaine
2600 Century Square
1501 Fourth Avenue
Seattle, Washington 98101
Telephone (206) 628 7711
Facsimile (206) 628 7699